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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,453	03/27/2004	Hua Yang	ALZ0013-00	9333
48394	7590	05/01/2008	EXAMINER	
DIEHL SERVILLA LLC 77 BRANT AVE SUITE 210 CLARK, NJ 07066				BEISNER, WILLIAM H
1797		ART UNIT		PAPER NUMBER
			NOTIFICATION DATE	
			DELIVERY MODE	
			05/01/2008	
			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dsiplaw.com  
skahaly@dsiplaw.com  
jescobar@dsiplaw.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/810,453	YANG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	WILLIAM H. BEISNER	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 October 2007 and 01 February 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 2 and 7-13 is/are allowed.
- 6) Claim(s) 14 is/are rejected.
- 7) Claim(s) 15 and 16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Mathus (US 5,972,694).

With respect to claim 14, the reference of Mathus discloses a diffusion cell (See Figure 9B) comprising a receptor (44) and donor (18) compartment, wherein the receptor compartment (44) is a single-chambered compartment that includes a first outlet and a second outlet, a diffusion membrane (42) and the donor compartment (18) are positioned over the first outlet, and the second outlet forms a bubble trap and a sampling arm, wherein a bottom surface of the diffusion membrane (42) forms at least a portion of the top surface of the receptor compartment and the first outlet of the receptor chamber is formed such that the portion of the top surface of the receptor compartment formed by the bottom surface of the diffusion membrane inclines upward toward the second outlet (See Figure 9B reproduced hereafter). Note, the incline disclosed by the reference of Mathus meets the claim language “means for removing bubbles located in the top surface extending between the first and second outlets”. Paragraph [0037] of the instant specification and previous versions of claims 16 and 19 evidence that an inclined

surface as disclosed by the reference of Mathus meets the claim language "means for removing bubbles located in the top surface extending between the first and second outlets".

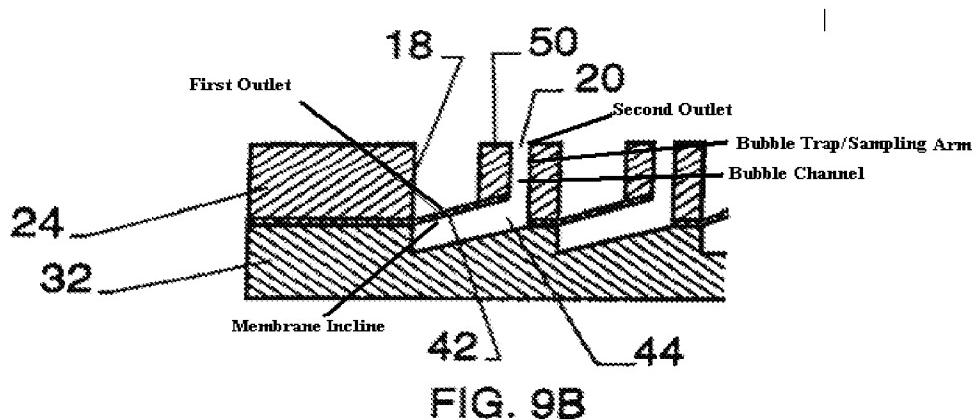


FIG. 9B

*Allowable Subject Matter*

3. Claims 2 and 7-13 are allowed.
4. Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

5. With respect to the rejection of Claims 2 and 6-19 under 35 U.S.C. 102(b) as being anticipated by Mathus (US 5,972,694), Applicants traverse the rejection for the following reasons (See pages 5-6 of the response filed 10/5/2008):

*Applicants respectfully traverse because Mathus fails to show either a bubble channel or means for removing bubbles that is located in the top surface of the receptor compartment. Mathus is directed to a "multi-well plate" and describes in FIG. 9B a membrane that slants upward towards an access port. (Col. 7, lines 50-51). Mathus also shows a top surface that divides the access port. The top surface of Mathus fails, however, to teach or suggest the bubble channel or the means for removing bubbles in the top surface. Because of this, the Office Action fails to provide cited art that recites every claim limitation.*

In response, Applicants' comments are not found to be persuasive with respect to claim 14 because claim 14 does not include a positive recitation of "a bubble chamber located in the top surface of the receptor compartment". Claim 14 merely recites "means for removing bubbles that is located in the top surface of the receptor compartment". As stated in the prior art rejection above, the incline disclosed by the reference of Mathus meets the claim language "means for removing bubbles located in the top surface extending between the first and second outlets". Paragraph [0037] of the instant specification and previous versions of claims 16 and 19 evidence that an inclined surface as disclosed by the reference of Mathus meets the claim language "means for removing bubbles located in the top surface extending between the first and second outlets".

### ***Conclusion***

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6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM H. BEISNER whose telephone number is (571)272-1269. The examiner can normally be reached on Tues. to Fri. and alt. Mon. from 6:15am to 3:45pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys J. Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/William H. Beisner/  
Primary Examiner  
Art Unit 1797**

WHB